



Billing Code: 4810-25-P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new Treasury system of records titled, "Department of the Treasury, Departmental Offices .227 - Committee on Foreign Investment in the United States (CFIUS) Case Management System."

DATES: Written comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The new routine uses will be applicable on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless Treasury receives comments and determines that changes to the system of records notice are necessary.

ADDRESSES: Written comments on this notice may be submitted electronically through the Federal government eRulemaking portal at <http://www.regulations.gov>. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department of the Treasury (Treasury) to make the comments available to the public. Please note that comments submitted through <https://www.regulations.gov> will be public, and can be viewed by members of the public. Due to COVID-19-related restrictions, Treasury has temporarily suspended its ability to receive public comments by mail.

In general, Treasury will post all comments to <https://www.regulations.gov> without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting material, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

For questions about this notice and privacy issues, contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records at U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220; telephone: (202) 622-5710.

SUPPLEMENTARY INFORMATION:

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new Treasury system of records titled, “Department of the Treasury, Departmental Offices .227 - Committee on Foreign Investment in the United States (CFIUS) Case Management System.”

As background, in 2018, the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), Subtitle A of Title XVII of Public Law 115–232, 132 Stat. 2173, was enacted. FIRRMA amends section 721 of the Defense Production Act of 1950, as amended (Section 721), which delineates the authorities and jurisdiction of Committee on Foreign Investment in the United States (CFIUS). FIRRMA maintains CFIUS’s jurisdiction over any transaction that could result in foreign control of any U.S. business, and broadens the authorities of the President and CFIUS under Section 721 to review and take action to address any national security concerns arising from certain non-controlling investments and certain real estate transactions involving foreign persons.

Executive Order 13456, 73 FR 4677 (January 23, 2008), directs the Secretary of the Treasury to issue regulations implementing Section 721. On January 17, 2020, Treasury published two rules broadly implementing FIRRMA, and those rules took effect on February 13, 2020. 85 FR 3112 and 85 FR 3158. Subsequent amendments were made to the regulations in 2020. 85 FR 8747 and 85 FR 45311.

Pursuant to Section 721 and its implementing regulations, CFIUS assesses or reviews, and may subsequently investigate (in the case of a review), transactions that could result in foreign control of a U.S. business and certain non-controlling investments and certain real estate transaction involving foreign persons to determine the effects of such transactions on the national security of the United States. As part of CFIUS's national security processes, Treasury, as chair of CFIUS, disseminates information submitted by parties to the transaction and other available information to certain Executive Branch agencies. Among other things, CFIUS evaluates certain personal identifier information of individuals associated with the foreign person engaged in the transaction and certain parent entities (*e.g.*, for purposes of conducting background checks), which informs CFIUS's determination of the effects of a transaction on the national security of the United States. At times, this may include personal identifier information of U.S. nationals if a U.S. national is a board member or officer of, has an ownership interest in, or has another relevant role related to, an entity engaged in a transaction before CFIUS or its parent entities. CFIUS may also receive certain personal identifier information of a U.S. national who is involved in a transaction as an individual if, for example, such individual is selling real estate in a transaction filed with CFIUS. In addition, CFIUS may collect personal identifier information for other purposes associated with its national security functions, including, for example,

personal identifier information related to a security officer or other person who may be involved in mitigating a risk posed to national security.

This new system of records supports CFIUS's collection of transaction information for analysis in the performance of its assessments, reviews and investigations of transactions, and for other purposes associated with its national security functions. The system may include records from other systems of records both within Treasury and in records provided by certain other Executive Branch agencies for the purpose of facilitating CFIUS's assessment, review and investigation of transactions. In maintaining its records, CFIUS is obligated to comply with its governing statute, and to the extent not inconsistent with that statute, generally applicable laws. Any records from another Treasury system of records or another Executive Branch agency's system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k), which may also be included in this system of records, retains the same exempt status such records have in the system for which such exemption is claimed. Additionally, pursuant to section 721(c) of the Defense Production Act of 1950, as amended, 50 U.S.C. 4565(c), and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS under Section 721 is exempt from disclosure under the Freedom of Information Act, as amended (FOIA), 5 U.S.C. 552, and no such information or documentary material may be made public.

The related information collections have been submitted to the Office of Management and Budget (OMB) under control number 1505-0121.

Additionally, Departmental Offices is issuing a separate Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act.

This established system will be included in Treasury's inventory of record systems. Below is the description of the Treasury, Departmental Offices .227 - CFIUS Case Management

System.

Treasury provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the U.S. Senate, and the OMB, pursuant to 5 U.S.C. 552a(r) and OMB Circular A-108, “Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,” dated December 23, 2016.

Ryan Law,

Deputy Assistant Secretary for Privacy,

Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury, Departmental Offices .227 - Committee on Foreign Investment in the United States (CFIUS) Case Management System.

SECURITY CLASSIFICATION: Classified.

SYSTEM LOCATION:

Records are maintained at the Departmental Offices:

1500 Pennsylvania Avenue, NW

Washington, DC 20220

SYSTEM MANAGER(S):

Departmental Offices:

a. Director of Business Operations, Office of International Affairs

U.S. Department of the Treasury

1500 Pennsylvania Avenue, NW

Washington, DC 20220

b. Chief Information Officer, U.S. Department of the Treasury

1750 Pennsylvania Avenue, NW,

Washington, DC 20220

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 321; 5 U.S.C. 301; 50 U.S.C. 4565; E.O. 11858, 12333, 12968, and 13526, as amended; 85 FR 3112; 85 FR 3158; 85 FR 8747; 85 FR 45311.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect information submitted by the parties to transactions assessed, reviewed or investigated by CFIUS and other available information related

to such transactions, and disseminate such information to certain Executive Branch agencies to coordinate CFIUS's national security functions related to such transactions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals for whom personal identifier information is needed by CFIUS to perform its national security functions. These individuals could include, for example, individuals in leadership or other positions in parties engaged in transactions filed with CFIUS or in such entities' parents, subsidiaries, or affiliates, individuals holding ownership interests or other roles in such entities, or individuals proposed to perform, or performing, security officer or other functions relating to mitigation of a national security threat, and individuals selling real estate or a business in a transaction filed with CFIUS.

CATEGORIES OF RECORDS IN THE SYSTEM: The categories of "personal identifier information" listed at 31 CFR 800.502(c)(5)(vi)(B) and 31 CFR 802.502(b)(3)(vi)(B), curriculum vitae (or other professional synopsis), and other information provided to or in possession of CFIUS. This includes:

- full name (last, first, middle name);
- all other names and aliases used;
- business address;
- nationality;
- country and city of residence;
- date of birth, in the format MM/DD/YYYY;
- place of birth;
- U.S. or foreign passport number (if more than one, all must be fully disclosed), nationality, date and place of issuance, and expiration date and, if a U.S. visa holder,

- the visa type and number, date and place of issuance, and expiration date; and
- dates and nature of foreign government and foreign military service (where applicable), other than military service at a rank below the top two non-commissioned ranks of the relevant foreign country.

RECORD SOURCE CATEGORIES:

The information contained in these records may be provided by the individual who is the subject of the record, their representative, or the representative of a party to a transaction filed with CFIUS, or through other means.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Only to the extent consistent with CFIUS's governing statute and confidentiality restrictions, including section 721 of the Defense Production Act of 1950, as amended (Section 721), and in addition to those disclosures generally permitted under the Privacy Act of 1974, as amended, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- (1) To appropriate agencies, entities and persons, including the United States Department of Justice (DOJ), when such records and/or information or portions thereof are relevant to any administrative or judicial action or proceeding;
- (2) To any domestic governmental entity, or to any foreign governmental entity of a United States ally or partner, under the exclusive direction and authorization of the chairperson of CFIUS, when such records and/or information or portions thereof are important to the national security analysis or actions of CFIUS, only to the extent necessary for national

security purposes, and subject to appropriate confidentiality and classification requirements;

- (3) To the National Archives and Records Administration Archivist (or the Archivist's designee) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;
- (4) To appropriate agencies, entities, and persons when (1) Treasury suspects or has confirmed that there has been a breach of the system of records; (2) Treasury has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, Treasury (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;
- (5) To another Federal agency or Federal entity, when Treasury determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;
- (6) To Executive Branch agencies, pursuant to Section 721, to assess, review and investigate transactions in respect of which the records or information were collected or any other transactions assessed, reviewed or investigated by CFIUS; and
- (7) To parties to transactions assessed reviewed or investigated by CFIUS, when CFIUS requires additional information or clarification on issues related to individuals who hold certain positions with respect to, or an ownership interest in, the entities engaged in such transactions

or their subsidiaries, parents or affiliates, or individuals proposed to perform, or performing, security officer or other functions relating to mitigation of a national security threat, including monitoring of such mitigation, or are otherwise involved in the transaction.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically on the Treasury Secure Data Network (the computer and infrastructure network Treasury uses to transmit classified information) or on paper in facilities and containers suitable for securing classified information.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, Social Security number, national identity number or passport number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are maintained according to the General Records Schedule 5.2, item 020, Intermediary Records. Records in this system are destroyed upon verification of successful creation of the final document or file, or when no longer needed for business use, whichever is later.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the records in the system. Access to the computer system containing the records in this system is limited to those appropriately cleared individuals who have a need to know the information for the performance of their official duties.

RECORD ACCESS PROCEDURES:

See “Notification Procedures” below.

CONTESTING RECORD PROCEDURES:

See “Notification Procedures” below.

NOTIFICATION PROCEDURES:

Pursuant to Section 721 and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS, as the President’s designee, under Section 721 is exempt from disclosure under the Freedom of Information Act, as amended (FOIA), 5 U.S.C. 552, and no such information or documentary material may be made public. Further, the Secretary of the Treasury has also exempted this system from the notification, access, and amendment procedures of the Privacy Act of 1974, as amended (Privacy Act), 5 U.S.C. 552a, because it contains classified information and investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act. Subject to the foregoing, Treasury’s Departmental Offices will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, Subpart C, Appendices A-M. Requests for information and specific guidance on where to send requests for records may be addressed to Director, FOIA Services, Department of the Treasury, 1750 Pennsylvania Avenue, NW, Washington, DC 20220.

When seeking records about yourself from this system of records or any other Treasury system of records your request must conform with the Privacy Act regulations set forth in 31 CFR 1.26. While no specific form is required, you may obtain forms for this purpose from the

Director, FOIA Services, Department of the Treasury, 1750 Pennsylvania Avenue, NW,
Washington, DC 20220.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Certain records in this system are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). See 31 CFR 1.36.

Additionally, pursuant to Section 721 and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS, as the President's designee, under Section 721 is exempt from disclosure under FOIA, and no such information or documentary material may be made public.

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